

**PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Application of:)	
)	Case No. 1D 2006 64857
)	
Andrew Ramirez)	Order Granting Initial Probationary License
)	
)	
<u>Applicant</u>)	

1) Andrew Jay Ramirez is a 1998 graduate of California State University, Northridge in Northridge, California. The applicant first filed his physical therapist application on or about June 24, 1999 in the State of California. However, the application was not complete within the time prescribed by law and the application was considered abandoned.

2) On January 18, 2002, the applicant submitted a second application for physical therapist licensure to the Physical Therapy Board of California. Question # 18 of the application asks: "Have you ever been convicted of, or pled nolo contendere to any offense in any state in the United States or a foreign country?" Under penalty of perjury to the truthfulness of all statements, answers, and representations in the application, the applicant answered "yes".

3) Based on the applicant's response and criminal history, the Board denied the application on July 12, 2002.

4) On or about July 29, 2002, the applicant requested a hearing to contest the denial of the application for licensure.

5) On July 2, 2003, James Ahler, Administrative Law Judge, Office of Administrative Hearings, State of California heard this matter in San Diego, California and provided the board with a Proposed Decision to deny the application. Based on the history of the applicant, it was determined it would not be in the public interest to issue a license at that time. Therefore, the application for licensure was denied on September 8, 2003.

6) On October 25, 2006, the board received a third application for physical therapist licensure.

JURISDICTION

7) Section 480 (a) of the Business and Professions Code states that a board may deny a license regulated by this code on the grounds that the applicant has one of the following: (1) Been convicted of a crime...; (2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another; or (3) Done any act which if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license... Section 480 (c) of the Business and Professions Code provides that the board may deny a license...on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for such license. The above findings support a conclusion that grounds for denial exist pursuant to Sections 480 (a)(1)(2) and (3) and 480(c).

8) Section 2660.2 of the Business and Professions Code, the Board may refuse a license to any applicant guilty of unprofessional conduct; or as an alternative, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct but has met all the requirements for licensure.

9) 1399.21 (c)(d)(e) of the California Code of Regulations, the board must evaluate the rehabilitation of the applicant and his or her present eligibility for a license and shall consider the time that has elapsed since commission as grounds for denial under Section 480; the extent to which the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant; and evidence, if any, of rehabilitation submitted by the applicant.

10) Pursuant to Section 480 and 481 of the Business and Professions Code, there is cause for denial of a license to the applicant.

Based on the evidence of rehabilitation provided by the applicant, a probationary license will be issued to Andrew Jay Ramirez on appropriate terms and conditions of probation.

ORDER

IT IS ORDERED THAT the application of Andrew Jay Ramirez for licensure as a physical therapist is hereby issued subject to terms and conditions. Said license shall be subject to all of the following terms and conditions for a period of five (5) years:

1. OBEY ALL LAWS Applicant shall obey all federal, state and local laws, and statutes and regulations governing the practice, inspections and reporting, of physical therapy in California and remain in full compliance with any court ordered criminal probation.
2. COMPLIANCE WITH ORDERS OF A COURT The Applicant shall be in compliance with any valid order of a court. Being found in contempt of any court order is a violation of probation.
3. COMPLIANCE WITH CRIMINAL PROBATION AND PAYMENT OF RESTITUTION Applicant shall not violate any terms and conditions of criminal

- probation and shall be in compliance with any restitution ordered, payments, and other orders.
4. QUARTERLY REPORTS Applicant shall submit quarterly reports under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all conditions of probation.
 5. PROBATION MONITORING PROGRAM COMPLIANCE Applicant shall comply with the Board's probation monitoring program.
 6. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Applicant shall appear in person for interviews with the Board, or its designee, upon request at various intervals.
 7. NOTIFICATION OF PROBATIONER STATUS TO EMPLOYERS The Applicants shall notify all present or future employers of the reason for and the terms and conditions of the probation by providing a copy of the Initial Probationary License, Statement of Issues, Accusation and the Decision and Order, or Stipulated Settlement to the employers, and submit written employer confirmation of receipt to the board within 10 days. The notification(s) shall include the name, address and phone number of the employer, and, if different, the name, address and phone number of the work location.
 8. NOTIFICATION OF CHANGE OF NAME OR ADDRESS The Applicant shall notify the Board, in writing, of any and all of name and/or address changes within ten days.
 9. PROHIBITED USE OF ALIASES Applicant shall not use aliases and shall be prohibited from using any name which is not his/her legally-recognized name or based upon a legal change of name.
 10. INTERMITTENT WORK If the Applicant works less than 192 hours as a physical therapist or a physical therapist assistant in the physical therapy profession in a period of three months, those months shall not be counted toward satisfaction of the probationary period. The Applicant shall notify the Board if they work less than 192 hours in a three-month period.
 11. TOLLING OF PROBATION The period of probation shall run only during the time the Applicant is practicing or performing physical therapy within California. If, during probation, the Applicant does not practice or perform within California, the Applicant is required to immediately notify the probation monitor in writing of the date that the Applicant is practicing or performing physical therapy out of state, and the date of return, if any. Practicing or performing physical therapy by the applicant in California prior to notification of the Board of the Applicant's return will not be credited towards completion of probation. Any order for the payment of cost recovery shall remain in effect whether or not probation is tolled.
 12. VIOLATION OF PROBATION If Applicant violates probation in any respect, the Board, after giving Applicant notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against applicant during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.
 13. REQUEST TO SURRENDER LICENSE DUE TO RETIREMENT, HEALTH, OR OTHER REASONS Following the effective date of this probation, if

- Applicant ceases practicing or performing physical therapy due to retirement, health or other reasons or is otherwise unable to satisfy the terms and conditions of probation Applicant may request to surrender his/her license to the Board. The Board reserves the right to evaluate the Applicant's request and to exercise its discretion whether to grant the request, or to take any other actions deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered license, the terms and conditions of probation shall be tolled until such time as the license is no longer renewable, the Applicant makes application for the renewal of the tendered license or makes application for a new license.
14. COMPLETION OF PROBATION Upon successful completion of probation, Applicant's license shall be fully restored.
 15. PRACTICE OR PERFORMANCE OF PHYSICAL THERAPY WHILE ON PROBATION It is not contrary to the public interest for the Applicant to practice and/or perform physical therapy under the probationary conditions specified in the disciplinary order. Accordingly, it is not the intent of the Board that this order, the fact that the applicant has been disciplined or that the applicant is on probation, shall be used as the sole basis for any third party payor to remove Applicant from any list of approved providers.
 16. PROBATION MONITORING COSTS Applicant shall reimburse all costs incurred by the Board for probation monitoring during the entire period of probation. Applicant will be billed at least quarterly. Such costs shall be made payable to the Physical Therapy Board of California. Failure to make ordered reimbursement within 60 days of the billing shall constitute a violation of the probation order.
 17. RESTRICTION OF PRACTICE-PRESENCE OF ANOTHER PHYSICAL THERAPIST REQUIRED Physical Therapists: The applicant shall be prohibited from working any shift in which there is no other physical therapist on duty. Physical Therapist Assistants: The Applicant shall be prohibited from working a shift for which there is not a physical therapist on duty.
 18. RESTRICTION OF PRACTICE-PROHIBITION OF SELF EMPLOYMENT OR OWNERSHIP Applicant shall not be the sole proprietor or partner in the ownership of any business that offers physical therapy services. Applicant shall not be a board member or an officer or have a majority interest in any corporation that offers or provides physical therapy services.
 19. RESTRICTION OF PRACTICE-PROHIBITION OF DIRECT BILLING OF THIRD PARTY PAYERS Applicant shall not have final approval over any physical therapy billings submitted to any third-party payers in any employment.
 20. RESTRICTION OF PRACTICE-ADMINISTRATION OR POSSESSION OF CONTROLLED SUBSTANCES Applicant shall not administer or possess any controlled substances as defined in the California Uniform Controlled Substances Act. This prohibition does not apply to medications lawfully prescribed to Applicant for a bona fide illness or condition by a practitioner license to prescribe such medications.
 21. PROHIBITION OF POSSESSION OR USE OF CONTROLLED SUBSTANCES Applicant shall abstain completely from the personal use or possession of controlled substances as defined by Section 4211 of the Business and Professions

Code, or any drugs requiring prescriptions. This prohibition does not apply to medications lawfully prescribed to Applicant for a bona fide illness or condition by a practitioner licensed to prescribe such medications. Failure to comply with any component of this condition as specified above is a violation of probation.

22. PROHIBITION OF THE USE OF ALCOHOL Applicant shall abstain completely from the use of alcoholic beverages. Failure to comply with any component of this condition as specified above is a violation of probation.

23. DIVERSION PROGRAM Within 15 days from the effective date of this decision, Applicant shall enroll and participate in the Board's Diversion Program at Applicant's cost until Board determines the participation in the Diversion Program is no longer necessary. Failure to comply with requirements of the Diversion Program, terminating the program without permission or being expelled for cause shall constitute a violation of probation by the Applicant. Failure to comply with any component of this condition as specified above is a violation of probation.

THIS DECISION SHALL BECOME EFFECTIVE ON February 7, 2007.

IT IS SO ORDERED January 8, 2007.

Original Signed By:
Steven K. Hartzell, Executive Officer